

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JIMMY ERIC GREEN,

Petitioner,

Case No. 10-12824

v.

Hon. John Corbett O'Meara

CARMEN PALMER,

Respondent.

**ORDER DENYING MOTIONS FOR
ISSUANCE OF CERTIFICATE OF APPEALABILITY
AND TO PROCEED *IN FORMA PAUPERIS* ON APPEAL**

Before the court are Petitioner's motions for a certificate of appealability and to proceed *in forma pauperis* on appeal, filed November 15, 2011. On July 1, 2011, the magistrate judge issued a report and recommendation recommending that Petitioner's petition for a writ of habeas corpus be denied. The magistrate judge also recommended that the court deny a certificate of appealability. The court adopted the report and recommendation and denied a certificate of appealability on August 19, 2011. Petitioner filed a motion for reconsideration, which was denied by the court on October 28, 2011. Petitioner filed a notice of appeal on November 15, 2011.

The court has already denied a certificate of appealability in this case, for the reasons set forth in the magistrate judge's July 1, 2011 report and recommendation. The court finds no basis to reconsider that decision.

A court may grant *in forma pauperis* status if the court finds that an appeal is being taken in good faith. See 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24 (a); Foster v. Ludwick, 208 F.

Supp. 2d 750, 765 (E.D. Mich. 2002). Good faith requires a showing that the issues raised are not frivolous. Id. In the present case, the court will DENY Petitioner leave to appeal *in forma pauperis*, because the appeal would be frivolous for the reasons stated in the magistrate judge's report and recommendation dated July 1, 2011. See Allen v. Stovall, 156 F. Supp. 2d 791, 798 (E.D. Mich. 2001).

SO ORDERED.

s/John Corbett O'Meara
United States District Judge

Date: December 8, 2011

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, December 8, 2011, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager